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EXAMINER
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HOEL, MATTHEW D

ART UNIT	PAPER NUMBER
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3714

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/29/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

10/649,091

Applicant(s)

BAERLOCHER, ANTHONY J.

Examiner

Matthew D. Hoel

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 25 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-17, 19-41, 43-61, 64-76 and 78-124 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-17, 19-27, 47-61, 64-71 and 84-93 is/are allowed.
- 6) ☒ Claim(s) 28-41, 43-46, 72-76, 78-83 and 94-124 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>07/25/06</u> | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Arguments***

1. For the sake of clarity the examiner makes the following notes about the newly presented claims. Claim 94 places the limitations of original Claims 1, 2, and 4 in independent form. Claim 95 places original Claims 1, 2, and 5 in independent form. Claim 96 places original Claims 1, 2, and 6 in independent form. Claim 97 places original Claims 1 and 13 in independent form. Claim 98 places original Claims 1 and 21 in independent form. Claim 99 places original Claims 1 and 22 in independent form. Claim 100 depends from Claim 22 and includes the limitations of original Claim 23. Claim 101 places original Claims 1 and 24 in independent form. Claim 102 depends from Claim 101 and includes the limitations of original Claim 25. Claim 103 places original claims 28 and 35 in independent form. Claim 104 places original Claims 28, 43, and 44 in independent form. Claim 105 places original Claims 28, 43, and 45 in independent form. Claim 106 places original Claims 28, 43, and 46 in independent form. Claim 107 places original Claims 47 and 51 in independent form. Claim 108 places original Claims 47, 54, and 54 in independent form. Claim 109 places original Claims 47, 53, and 55 in independent form. Claim 110 places original Claims 47, 53, and 56 in independent form. Claim 111 places original Claims 57 and 59 in independent form. Claim 112 places original Claims 57 and 65 in independent form. Claim 113 places original Claims 57 and 66 in independent form. Claim 114 places original Claims 57 and 67 in independent form. Claim 115 places original Claims 57

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and 68 in independent form. Claim 116 places original Claims 57 and 69 in independent form. Claim 117 places original Claims 72 and 74 in independent form. Claim 118 places original Claims 72 and 79 in independent form. Claim 119 places original Claims 72 and 80 in independent form. Claim 120 places original Claims 72 and 81 in independent form. Claim 121 places original Claims 84 and 86 in independent form. Claim 122 places original Claims 84 and 89 in independent form. Claim 123 places original Claims 84 and 90 in independent form. Claim 124 places original Claims 84 and 91 in independent form.

2. The examiner had previously objected to Claims 4-6, 13, 18, 21-25, 35, 42, 44-46, 51, 54-56, 59, 63, 65-69, 74, 77, 79, 80, 81, 86, and 89-91 as being dependent upon rejected claims, but otherwise allowable. The applicant thus put some of these limitations in independent form to expedite prosecution. Upon further consideration, however, some of these limitations are either obvious or inherent in light of the cited references as outlined in the rejections below. The examiner has provided suggestions for putting the claims in allowable form, as the new limitations of Claim 1 create an inoperable device in the machines of the cited references. The new limitation of Claim 1 would require moving the selected payline indicator (symbol indicator) relative to the plurality of slot reels (award indicator), which would create an inoperative device. This new limitation makes Claim 1 allowable as presently amended.

3. The examiner respectfully disagrees with the applicant as to the claims' condition for allowability.

***Allowable Subject Matter***

5. Claims 1 to 17, 19 to 27, 47 to 61, 64 to 71, and 84 to 93 are allowed, as independent Claims 1, 47, 57, and 84 have been amended to cite the activatable symbol indicators being movable relative to the award indicator. Throughout prosecution, the examiner has interpreted the award indicator to be a plurality of slot reels, the award symbols to be winning paylines on the slot reels, and the symbol indicators to be activatable payline indicators indicating that a wager has been made on a particular payline. The first set of award symbols has been interpreted as left-to-right paylines, and the second set of award symbols has been interpreted as right-to-left paylines. On such a slot machine, having the symbol indicators moving relative to the award indicator would be impossible as the slot reels are what move, resulting in an inoperative device.

***Claim Rejections - 35 USC § 103***

6. The text of those sections of Title 35, U.S. Code 103 not included in this action can be found in a prior Office action.

7. Claims 28, 29, 34 to 41, 43 to 46, 72 to 76, 78 to 81, and 94 to 124 are rejected under 35 U.S.C. 103(a) as being obvious over Frohm, et al. (U.S. patent 6,159,095 A) in view of Olive (U.S. pre-grant publication 2002/0025849 A1).

8. As to Claim 28: '095 discloses all of the limitations of Claim 28, but lacks specificity as to a plurality of second award symbols, a plurality of activatable second

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award symbols position adjacent relative to the first award symbols on the award indicator, a plurality of second awards associated with the second award symbols, or causing the activated second symbol indicator to indicate the second award symbols on the award indicator. '095 teaches a gaming device (Abst., Fig. 1). '095 teaches a plurality of award indicators (two sets of slot reels, each set being an award indicator, Fig. 7). '095 teaches a plurality of first award symbols (award indicator—plurality of slot reels, Fig. 6; plurality of first award symbols—plurality of winning paylines, Fig. 8). '095 teaches a plurality of activatable symbol indicators positioned adjacent to the first award symbols on each of the award indicators (activated paylines—activatable symbol indicators, 214, 221, Fig. 7; plural activatable paylines possible depending on how much player bets, Col. 9, Lines 33 to 37). '095 teaches a plurality of first awards associated with the first award symbols for at least one of the award indicators (winning paylines, Fig. 8). '095 teaches a processor (17, Fig. 3). The player of '095 is able to pick at least one of the first symbol indicators to activate the first symbol indicator (player can activate one payline, Fig. 6, may activate only one payline, Col. 9, Lines 33 to 37). '095 causes any activated first symbol indicator to indicate the first award symbols on the award indicator (player wins when a winning combination appears on an activated payline, Col. 9, Lines 39 to 45, Fig. 8). '849, however, teaches a plurality of second award symbols (plurality of second award symbols—right-to-left paylines in addition to normal left-to-right paylines, Figs. 3, 4a-e, Para. 28). '849 teaches a plurality of second activatable award symbols positioned adjacent to the second award symbols of each of the award indicators (activatable right-to-left paylines in addition to normal left-to-right

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paylines, Figs. 3, 4a-e, Para. 28; player can bet on one or more paylines, Para. 26).

'849 teaches a plurality of second awards associated with the second symbols for at least one of the award indicators (second awards—prizes paid on right-to-left paylines, Para. 28). The player of '849 is able to pick at least one of the second symbol indicators to activate the picked second symbol indicator (player can bet on one or more paylines, Para. 26). '849 causes any activated second symbol indicator to indicate the second award symbols on the award indicator (game pays if a winning combination occurs on a right-to-left payline, Para. 28). '849 provides a total award to a player based on the first and second awards associated with the indicated first and second award symbols (game pays on winning combinations occurring on both traditional left-to-right paylines and right-to-left paylines, Para. 28). It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the plurality of second award symbols, a plurality of activatable second award symbols position adjacent relative to the first award symbols on the award indicator, a plurality of second awards associated with the second award symbols, or causing the activated second symbol indicator to indicate the second award symbols on the award indicator of '849 to the gaming device of '095. The slot game of '849 can be implemented as a bonus game (Para. 26), like the slot game of '095 (Col. 9, Lines 58 to 63). '095 is a slot game (Fig. 6) that uses a touchscreen interface (Col. 3, Lines 57 to 62), like the game of '849 (Para. 18, Figs. 2-4). The combination would produces a game operable to enable a player to pick one of the first symbol indicators (left-to-right selected payline indicators) to activate the picked first symbol indicator, enable the player to pick one of the second

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symbol indicators (right-to-left selected payline indicators) to activate the picked second symbol indicator, cause the activated first symbol indicator to indicate one of the first award symbols on the award indicator, cause the activated second symbol indicator to indicate one of the second award symbols on the award indicator, and provide a total award to a player based on the first and second awards associated with the indicated first and second award symbols. The advantage of this combination would be to stimulate players' interest in the game by providing both traditional left-to-right paylines as well as right-to-left paylines (first and second groups of award symbols), providing more chances for winning to the players.

9. As to Claim 29: '849 teaches at least one of the first awards and the second awards being the same. '849 teaches an award symbol of "3 X K" (Para. 28, Fig. 4a). The award symbols can be read from the traditional left-to-right order or from the right-to-left order, so the first and second award symbols are the reverse of each other (Para. 28) and are the same combination.

10. As to Claim 34: In '849, the total award is the sum of the first and second awards associated with the indicated first and second award symbols (prizes awarded for both left-to-right and right-to-left winning combinations, Para. 28).

11. As to Claim 35: Regarding the 103 combination of '095 and '849, '849 discloses the total award as being the sum of the first and second awards (prizes awarded for both left-to-right and right-to-left winning combinations, Para. 28), but does not disclose the total award being a product of the first and second awards. The applicant has not disclosed that having the total award being the product of the first and second awards



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solves any stated problem or is for any particular purpose. Moreover, it appears that '849, or the applicant's invention, would function equally well by having the total award being the product of the first and second awards. Accordingly, it would have been prima facie obvious at the time the invention was made to have modified '849 such that the total award is a product of the first and second awards, because such a modification would have been considered a mere design consideration which fails to patentably distinguish above '849.

**12.** As to Claim 36: The display device of '095 is operable to display the award indicator (plural sets of reels displayed on screen, Fig. 7).

**13.** As to Claim 37: The display device of '095 includes a touchscreen (Col. 3, Lines 57 to 62).

**14.** As to Claim 38: '095 includes a touchscreen in communication with the processor (Fig. 3). '849 enables a player to select one of the first symbol indicators and one of the second symbol indicators (pick one or more paylines, Para. 26; winning combinations awarded on both left-to-right and right-to-left paylines, Para. 28) associated with at least one of the indicators (slot reels, Figs. 3, 4a-3).

**15.** As to Claim 39: '095 includes a touchscreen in communication with the processor (Fig. 3). '849 enables a player to select one of the first symbol indicators and one of the second symbol indicators (pick one or more paylines, Para. 26; winning combinations awarded on both left-to-right and right-to-left paylines, Para. 28).

16. As to Claim 40: As to Claim 19: '849 teaches the first award symbols and the second award symbols including at least one bonus symbol (three treasure chests triggering a free game, Para. 25).
17. As to Claim 41: '849 teaches at least one free activation of the award indicator being associated with the bonus symbol (10 or 15 free game, Para. 25).
18. As to Claim 43: In '849, the first award symbols (winning payline combinations) and the second award symbols are positionally related. '849 teaches an award symbol of "3 X K" (Para. 28, Fig. 4a). The award symbols can be read from the traditional left-to-right order or from the right-to-left order, so the first and second award symbols are the reverse of each other (Para. 28).
19. As to Claim 44: Neither '095 nor '849 in the 103 combination of '095 and '849 explicitly mention the limitation of including an average expected award based on the first and second awards associated with at least one of the indicated first award symbols and at least one of the indicated second award symbols, wherein the first and second awards are arranged on the award indicator so that the average expected award is the same. The examiner believes that this would be inherent in these references. '095 teaches a slot machine with a payable (Fig. 8). Slot machines are required by law to have a minimum fixed payout percentage, as evidenced by Nevada Gaming Regulation 14.040 which requires at least a 75% payout. That the payout is fixed is demonstrated by the fixed payout table of '095 (Fig. 8), which does not change during the course of the game. '849 teaches the player betting and winning on right-to-left in addition to left-to-right paylines (activatable right-to-left paylines in addition to

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normal left-to-right paylines, Figs. 3, 4a-e, Para. 28; player can bet on one or more paylines, Para. 26); the same symbol combinations are paid in either direction. The examiner thus believes that the average expected award based on the first and second awards will be approximately the same throughout the game, being inherent in the machine created by the 103 combination of these references.

20. As to Claim 45: Neither '095 nor '849 in the 103 combination of '095 and '849 explicitly mention the limitation of including an average expected award based on the first and second symbols associated with at least one of the indicated first award symbols and at least one of the indicated second award symbols, wherein the first and second awards are arranged on the award indicator so that the average expected award is different in each indication of the first and second symbols. The examiner believes that this would be inherent in these references. '095 teaches a slot machine with a paytable (Fig. 8). '849 teaches the player betting and winning on right-to-left in addition to left-to-right paylines (activatable right-to-left paylines in addition to normal left-to-right paylines, Figs. 3, 4a-e, Para. 28; player can bet on one or more paylines, Para. 26); the same symbol combinations are paid in either direction. Fig. 8 of '095 shows a paytable with multiple winning combinations. On average, a slot machine with such a paytable will have a different combination of symbols on each payline for each indication, or pull of the slot handle. Very seldom will the same combination appear twice in a row—almost never. The examiner thus believes that it is inherent that the average expected award will be different in each indication of the first and second awards in the machine created by the 103 combination of '095 and '849.

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21. As to Claim 46: Neither '095 nor '849 in the 103 combination of '095 and '849 explicitly mention the limitation of including an average expected award based on the first and second symbols associated with at least one of the indicated first award symbols and at least one of the indicated second award symbols, wherein the first and second awards are arranged on the award indicator so that the average expected award is different in a plurality of the indications of the first and second symbols. The examiner believes that this would be inherent in these references. '095 teaches a slot machine with a paytable (Fig. 8). '849 teaches the player betting and winning on right-to-left in addition to left-to-right paylines (activatable right-to-left paylines in addition to normal left-to-right paylines, Figs. 3, 4a-e, Para. 28; player can bet on one or more paylines, Para. 26); the same symbol combinations are paid in either direction. Fig. 8 of '095 shows a paytable with multiple winning combinations. On average, a slot machine with such a paytable will have a different combination of symbols on each payline for each indication, or pull of the slot handle. Very seldom will the same combination appear twice in a row—almost never. The examiner thus believes that it is inherent that the average expected award will be different in a plurality of the indications of the first and second awards in the machine created by the 103 combination of '095 and '849.

22. As to Claim 72: '095 teaches a gaming device (Abst., Fig. 1). '095 teaches an award indicator including a plurality of first award symbols (award indicator—plurality of slot reels, Fig. 6; plurality of first award symbols—plurality of winning paylines, Fig. 8). '849 teaches a plurality of second award symbols (plurality of second award symbols—

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right-to-left paylines in addition to normal left-to-right paylines, Figs. 3, 4a-e, Para. 28).

'095 teaches a plurality of first awards associated with the first award symbols (Fig. 8).

'849 also teaches a plurality of second awards associated with the second award

symbols (second awards—prizes paid on right-to-left paylines, Para. 28). '095 enables

a player to pick a plurality of first symbol indicators positioned adjacent to the first award

symbols (player can activate a payline, Fig. 6, may activate more than one payline, Col.

9, Lines 33 to 37). '849 enables a player to pick a plurality of second symbol indicators

positioned adjacent to the second award symbols (player can bet on one or more

paylines, Para. 26). '095 activates the picked first symbol indicators (activated payline,

Fig. 6). '849 activates the picked second symbol indicators (paylines indicated, Figs. 3,

4a-e). '095 indicates one of the first award symbols with the activated first symbol

indicators (player wins when a winning combination appears on an activated payline,

Col. 9, Lines 39 to 45, Fig. 8). '849 indicates one of the second award symbols with the

activated symbol indicators (game pays if a winning combination occurs on a right-to-left

payline, Para. 28). '849 provides a total award to a player based on the first and second

awards associated with the indicated first and second award symbols on the award

indicator (game pays on winning combinations occurring on both traditional left-to-right

paylines and right-to-left paylines, Para. 28).

**23.** As to Claim 73: In '849, the total award is the sum of the first and second awards associated with the indicated first and second award symbols (prizes awarded for both left-to-right and right-to-left winning combinations, Para. 28).

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**24.** As to Claim 74: Regarding the 103 combination of '095 and '849, '849 discloses the total award as being the sum of the first and second awards (prizes awarded for both left-to-right and right-to-left winning combinations, Para. 28), but does not disclose the total award being a product of the first and second awards. The applicant has not disclosed that having the total award being the product of the first and second awards solves any stated problem or is for any particular purpose. Moreover, it appears that '849, or the applicant's invention, would function equally well by having the total award being the product of the first and second awards. Accordingly, it would have been prima facie obvious at the time the invention was made to have modified '849 such that the total award is a product of the first and second awards, because such a modification would have been considered a mere design consideration which fails to patentably distinguish above '849.

**25.** As to Claim 75: '849 teaches enabling the player to select a plurality of the activatable first symbol indicators and a plurality of the activatable second symbol indicators using a touch screen. (can activate one or more paylines, Para. 26; left-to-right and right-to-left paylines, Para. 28; touchscreen, Para. 21).

**26.** As to Claim 76: '849 teaches at least one free activation of the award indicator when at least one bonus symbol is associated with the first award symbol or the second award symbol indicated by the activated first and second symbol indicators (10 or 15 free games, Para. 25).

**27.** As to Claim 78: '095 teaches a plurality of award indicators (multiple sets of slot reels, Fig. 7). '849 teaches a plurality of first award symbols and a plurality of second

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award symbols (winning combinations associated with left-to-right and right-to-left paylines, Para. 28).

**28.** As to Claim 79: Neither '095 nor '849 in the 103 combination of '095 and '849 explicitly mention the limitation of including an average expected award based on the first and second awards associated with at least one of the indicated first award symbols and at least one of the indicated second award symbols, wherein the first and second awards are arranged on the award indicator so that the average expected award is the same. The examiner believes that this would be inherent in these references. '095 teaches a slot machine with a paytable (Fig. 8). '849 teaches the player betting and winning on right-to-left in addition to left-to-right paylines (activatable right-to-left paylines in addition to normal left-to-right paylines, Figs. 3, 4a-e, Para. 28; player can bet on one or more paylines, Para. 26); the same symbol combinations are paid in either direction. The examiner thus believes that the average expected award based on the first and second awards will be approximately the same throughout the game, being inherent in the machine created by the 103 combination of these references.

**29.** As to Claim 80: Neither '095 nor '849 in the 103 combination of '095 and '849 explicitly mention the limitation of including an average expected award based on the first and second symbols associated with at least one of the indicated first award symbols and at least one of the indicated second award symbols, wherein the first and second awards are arranged on the award indicator so that the average expected award is different in each indication of the first and second symbols. The examiner

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believes that this would be inherent in these references. '095 teaches a slot machine with a paytable (Fig. 8). '849 teaches the player betting and winning on right-to-left in addition to left-to-right paylines (activatable right-to-left paylines in addition to normal left-to-right paylines, Figs. 3, 4a-e, Para. 28; player can bet on one or more paylines, Para. 26); the same symbol combinations are paid in either direction. Fig. 8 of '095 shows a paytable with multiple winning combinations. On average, a slot machine with such a paytable will have a different combination of symbols on each payline for each indication, or pull of the slot handle. Very seldom will the same combination appear twice in a row—almost never. The examiner thus believes that it is inherent that the average expected award will be different in each indication of the first and second awards in the machine created by the 103 combination of '095 and '849.

**30.** As to Claim 81: Neither '095 nor '849 in the 103 combination of '095 and '849 explicitly mention the limitation of including an average expected award based on the first and second symbols associated with at least one of the indicated first award symbols and at least one of the indicated second award symbols, wherein the first and second awards are arranged on the award indicator so that the average expected award is different in a plurality of the indications of the first and second symbols. The examiner believes that this would be inherent in these references. '095 teaches a slot machine with a paytable (Fig. 8). '849 teaches the player betting and winning on right-to-left in addition to left-to-right paylines (activatable right-to-left paylines in addition to normal left-to-right paylines, Figs. 3, 4a-e, Para. 28; player can bet on one or more paylines, Para. 26); the same symbol combinations are paid in either direction. Fig. 8 of



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'095 shows a paytable with multiple winning combinations. On average, a slot machine with such a paytable will have a different combination of symbols on each payline for each indication, or pull of the slot handle. Very seldom will the same combination appear twice in a row—almost never. The examiner thus believes that it is inherent that the average expected award will be different in a plurality of the indications of the first and second awards in the machine created by the 103 combination of '095 and '849.

31. As to Claim 94: The previous discussions (non-final, 5-5-2006) of original Claims 1 and 2 are incorporated by reference as this claim puts them in independent form. Regarding the average expected award based on the first and second awards associated with at least one indicated first award symbol and at least one indicated second award symbol, wherein the first and second awards are arranged on the award indicator so that the average expected award is approximately the same, the examiner believes this is inherent to the machine created by the 103 combination of '095 and '849 for the reasons outlined in the rejection of present Claim 44 above. Incorporating the new limitations of Claim 1 requiring the symbol indicators to move relative to the award indicator will make this claim allowable.

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32. As to Claim 95: The previous discussions (non-final, 5-5-2006) of original Claims 1 and 2 are incorporated by reference as this claim puts them in independent form.

Regarding the average expected award based on the first and second awards associated with at least one indicated first award symbol and at least one indicated second award symbol, wherein the first and second awards are arranged on the award indicator so that the average expected award is different in each indication of the first and second award symbols, the examiner believes this is inherent to the machine created by the 103 combination of '095 and '849 for the reasons outlined in the rejection of present Claim 45 above. Incorporating the new limitations of Claim 1 will make this claim allowable.

33. As to Claim 96: The previous discussions (non-final, 5-5-2006) of original Claims 1 and 2 are incorporated by reference as this claim puts them in independent form.

Regarding the limitation concerning the first and second awards being arranged on the award indicator so that the average expected award is different in a plurality of indications of the first and second award symbols, the examiner believes this is inherent in the machine created by the 103 combination of '095 and '849 for the reasons outlined in the rejection of present Claim 46 above. Incorporating the new limitations of Claim 1 will make this claim allowable.

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34. As to Claim 97: The previous discussion (non-final, 5-5-2006) of original Claim 1 is incorporated by reference as this claim puts it in independent form. Regarding the limitation of providing a total award to a player, wherein the total award is the product of the first and second awards associated with the indicated first and second symbols, the examiner believes this limitation is an obvious design choice in light of '095 and '849 for the reasons outlined in the rejection of present Claim 35 above. Incorporating the new limitations of Claim 1 will make this claim allowable.

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35. As to Claim 98: The previous discussion (non-final, 5-5-2006) of original Claim 1 is incorporated by reference as this claim puts it in independent form. Regarding the selection display having a plurality of player-selectable first inputs and a plurality of player-selectable second inputs, wherein the first inputs correspond to the first symbol indicators and the second inputs correspond to the second symbol indicators, the examiner believes this limitation is an obvious design choice in light of the machine created by the 103 combination of '095 and '849 in the rejection of Claim 28. '095 teaches slot machines with activatable paylines, a first set of award symbols with a first set of corresponding symbol indicators (Figs. 6, 7, 9, paylines activated corresponding to number of coins or credits played, Col. 9, Lines 25 to 35). '849 teaches a second set of activatable award indicators (right-to-left paylines in addition to standard left-to-right paylines, Para. 28, Figs. 3, 4a-c). While neither reference explicitly teaches inputs corresponding to activatable symbol indicators, both references are slot machines with touchscreens ('095, Col. 3, Lines 57 to 62; '849, Para. 18, Figs. 2-4). Both of these references could be easily modified to have inputs corresponding to the first and second sets of activatable symbol indicators (activatable payline indicators) on the touchscreen. The applicant has not stated that having a first set of inputs or a second set of inputs solves any stated problem, or is for any particular purpose. Moreover, it appears that either '095 or '849, or the applicant's invention would function equally well with this modification. Accordingly, it would have been prima facie obvious to one of ordinary skill in the art at the time the invention was made to have modified '095 or '849 to have this modification, because this modification would have been considered a mere design

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consideration which fails to patentably distinguish above '095 or '849. Incorporating the new limitations of Claim 1 will make this claim allowable.

36. As to Claim 99: The previous discussion (non-final, 5-5-2006) of original Claim 1 is incorporated as this claim puts it in independent form. Regarding the limitation of at least two of the first symbol indicators having the same average expected value, the examiner believes this is inherent to the machine of the 103 combination of '095 and '849 for similar reasons to those outlined in the rejection of Claim 44. Having the same symbol appear two or more times in a row on a slot reel is an obvious design choice. Such a modification would result in the possibility, although infrequent, that the same combination of symbols would occur on one or more adjacent paylines on the plurality of slot reels (award indicator). This would be two of the first symbol indicators having the same average expected value. The applicant has not stated that having this limitation solves any stated problem or is for any particular purpose. Moreover, it appears that either '095 or '849, or the applicant's invention would function just as well with this modification. Accordingly, it would have been prima facie obvious to one of ordinary skill in the art at the time the invention was made to have modified '095 or '849 such that at least two of the first symbol indicators have the same average expected value, as this modification would have been considered a mere design consideration which fails to patentably distinguish above either '095 or '849. Incorporating the new limitations of Claim 1 will make this claim allowable.

37. As to Claim 100: The previous discussions (non-final, 5-5-2006) of original Claims 1 and 2 are incorporated by reference as this claim puts them in independent form. Regarding the limitation of at least two of the second symbol indicators having the same average expected value, this limitation is rejected for the same reasons as present Claim 99 above. Incorporating the new limitations of Claim 1 will make this Claim allowable.

38. As to Claim 101: The previous discussion (non-final, 5-5-2006) of original Claim 1 is incorporated by reference as this claim puts it in independent form. Regarding the limitation that all of the first symbol indicators have the same average expected value, this limitation is rejected on similar obviousness grounds as present Claim 99 above. Incorporating the new limitations of Claim 1 will make this claim allowable.

39. As to Claim 102: The previous discussion (non-final, 5-5-2006) of original Claim 1 is incorporated by reference as this claim puts it in independent form. Regarding the limitation that all of the second symbol indicators have the same average expected value, this limitation is rejected on similar obviousness grounds as present Claim 99 above. Incorporating the new limitations of Claim 1 will make this claim allowable.

40. As to Claim 103: The previous discussion (non-final, 5-5-2006) of original Claim 28 is incorporated by reference as this claim puts it in independent form. Regarding the limitation that the total award provided to the player is the product of the indicated first and second award symbols, this claim is rejected for the same reasons as present Claim 35 above. Incorporating the new limitations of Claim 1 will make this claim allowable.

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41. As to Claim 104: The previous discussions (non-final, 5-5-2006) of original Claims 28 and 43 are incorporated by reference as this claim puts the in independent form. Regarding the limitation that the average expected award based on the first and second awards associated with at least one indicated first award symbol and at least one indicated second award symbol, wherein the symbols are arranged on the award indicator so that the average expected award is approximately the same, this limitation is rejected for the same reasons as present Claim 44 above. Incorporating the new limitations of Claim 1 will make this claim allowable.

42. As to Claim 105: The previous discussions (non-final, 5-5-2006) of original Claims 28 and 43 are incorporated by reference as this claim puts them in independent form. Regarding the limitation of the average expected award being different in each indication of the first and second award symbols, this limitation is rejected for the same reasons as present Claim 45 above. Incorporating the new limitations of Claim 1 will make this claim allowable.

43. As to Claim 106: The previous discussions (non-final, 5-5-2006) of original Claims 28 and 43 are incorporated by reference as this claim puts them in independent form. Regarding the limitation of the average expected award being different in a plurality of indications of the first and second award symbols, this limitation is rejected for the same reasons as present Claim 46 above. Incorporating the new limitations of Claim 1 will make this claim allowable.

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44. As to Claim 107: The previous discussion (non-final, 5-5-2006) of original Claim 47 is incorporated as this claim puts it in independent form. Regarding the limitation of the total award being the product of the indicated first and second awards associated with the indicated first and second award symbols, this limitation is rejected for the same reasons as present Claim 35 above. Incorporating the new limitations of Claim 1 will make this claim allowable.

45. As to Claim 108: The previous discussions (non-final, 5-5-2006) of original Claims 47 and 53 are incorporated by reference as this claim puts them in independent form. Regarding the limitation of the average expected award being approximately the same, this limitation is rejected for the same reasons as present Claim 44 above. Incorporating the new limitations of Claim 1 will make this claim allowable.

46. As to Claim 109: The previous discussions (non-final, 5-5-2006) of original Claims 47 and 53 are incorporated by reference as this claim puts them in independent form. As to the limitation of the average expected award being different in each indication of the first and second award symbols, this limitation is rejected for the same reasons as present Claim 45 above. Incorporating the new limitations of Claim 1 will make this claim allowable.



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47. As to Claim 110: The previous discussions (non-final, 5-5-2006) of original Claims 47 and 53 are incorporated by reference as this claim puts them in independent form. As to the limitation of the average expected award being different in a plurality of indications of the first and second award symbols, this limitation is rejected for the same reasons as present Claim 46 above. Incorporating the new limitations of Claim 1 will make this claim allowable.

48. As to Claim 111: The previous discussion (non-final, 5-5-2006) of original claim 57 is incorporated as this claim puts it in independent form. As to the limitation of the total award including multiplying the first and second awards, this limitation is rejected for the same reasons as present Claim 35 above. Incorporating the new limitations of Claim 1 will make this claim allowable.

49. As to Claim 112: The previous discussion (non-final, 5-5-2006) of original Claim 57 is incorporated as this claim puts it in independent form. As to the limitation of the first inputs corresponding to the first symbol indicators and the second inputs corresponding to the second symbol indicators, this limitation is rejected for the same reasons as present Claim 98 above. Incorporating the new limitations of Claim 1 will make this Claim allowable.

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50. As to Claim 113: The previous discussion (non-final, 5-5-2006) of original Claim 57 is incorporated as this claim puts it in independent form. As to the limitation of the first symbol indicators being positioned adjacent to the first award symbols and the second award symbols being positioned adjacent to the second award symbols, this limitation is rejected for similar reasons as present Claim 98 above, as Figs. 6, 7, and 9 of '095 teach activated payline indicators positioned adjacent to winning paylines.

Incorporating the new limitations of Claim 1 will make this claim allowable.

51. As to Claim 114: The previous discussion (non-final, 5-5-2006) of original Claim 57 is incorporated by reference as this claim puts it in independent form. Regarding the limitation of the average expected total award being the same, this limitation is rejected for the same reasons as present Claim 44 above. Incorporating the new limitations of Claim 1 will make this claim allowable.

52. As to Claim 115: The previous discussion (non-final, 5-5-2006) of original Claim 57 is incorporated by reference as this claim puts it in independent form. As to the limitation of the average expected award being different on each indication, this limitation is rejected for the same reasons as present Claim 45 above. Incorporating the new limitations of Claim 1 will make this claim allowable.

53. As to Claim 116: The previous discussion (non-final, 5-5-2006) of original Claim 57 is incorporated by reference as this claim puts it in independent form. As to the limitation of the average expected award being different in a plurality of indications, this limitation is rejected for the same reasons as present Claim 46 above. Incorporating the new limitations of Claim 1 will make this claim allowable.

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54. As to Claim 117: The previous discussion (non-final, 5-5-2006) of original Claim 72 is incorporated by reference as this claim puts it in independent form. As to the limitation of the total award including multiplying the first and second awards, this limitation is rejected for the same reasons as present Claim 35 above. Incorporating the new limitations of Claim 1 will make this claim allowable.

55. As to Claim 118: The previous discussion (non-final, 5-5-2006) of original Claim 72 is incorporated by reference as this claim puts it in independent form. As to the limitation of the average expected total award being the same, this limitation is rejected for the same reasons as present Claim 44 above. Incorporating the new limitations of Claim 1 will make this claim allowable.

56. As to Claim 119: The previous discussion (non-final, 5-5-2006) of original Claim 72 is incorporated by reference as this claim puts it in independent form. As to the limitation of the average expected total award being different on each indication, this limitation is rejected for the same reason as present Claim 45 above. Incorporating the new limitations of Claim 1 will make this claim allowable.

57. As to Claim 120: The previous discussion (non-final, 5-5-2006) of original Claim 72 is incorporated by reference as this claim puts it in independent form. As to the limitation of the average expected total award being different in a plurality of indications, this limitation is rejected for the same reasons as present Claim 46 above. Incorporating the new limitations of Claim 1 will make this claim allowable.

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58. As to Claim 121: The previous discussion (non-final, 5-5-2006) of original Claim 84 is incorporated by reference as this claim puts it in independent form. As to the limitation of the total award including multiplying the first and second awards, this limitation is rejected for the same reasons as present Claim 35 above. Incorporating the new limitations of Claim 1 will make this claim allowable.

59. As to Claim 122: The previous discussion (non-final, 5-5-2006) of original Claim 84 is incorporated by reference as this claim puts it in independent form. As to the limitation of the average expected total award being the same, this limitation is rejected for the same reasons as present Claim 44 above. Incorporating the new limitations of Claim 1 will make this claim allowable.

60. As to Claim 123: The previous discussion (non-final, 5-5-2006) of original Claim 84 is incorporated by reference as this claim puts it in independent form. As to the limitation of the average expected total award being different in a plurality of indications, this limitation is rejected for the same reason as present Claim 45 above. Incorporating the new limitations of Claim 1 will make this claim allowable.

61. As to Claim 124: The previous discussion (non-final, 5-5-2006) of original Claim 84 is incorporated by reference as this claim puts it in independent form. As to the limitation of the average expected total award being different in a plurality of indications, this limitation is rejected for the same reasons as present Claim 46 above. Incorporating the new limitations of Claim 1 will make this claim allowable.

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62. Claims 30 to 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of '095 and '849 in view of Bennett, et al. (U.S. pre-grant patent 2002/0025846 A1, application 09/912,727).

63. As to Claim 30: The combination of '095 and '849 discloses all of the elements of Claim 7, but lacks specificity as to a plurality of the first awards and the second awards being the same. '846, however, teaches a plurality of the first awards and the second awards being the same. An exemplary payable is shown in Fig. 6. The winning payline combinations can be read from left to right or from right to left (Para. 49), and so are first award symbols and second award symbols that are mirror images of each other. A plurality, in fact, all, of the first and second award symbols are the same. It would be obvious to one of ordinary skill in the art at the time the invention was made to apply the first and second awards of '846 to the combination of '095 and '849. '846 is a touchscreen slot game (Fig. 1, Para. 29), like those of '095 and '849. The advantage of this combination would be to provide more predictability for the players by allowing them to win on the same award symbol whether it is read left to right or right to left.

64. As to Claim 31: '846 teaches all of the first awards and the second awards being the same. An exemplary payable is shown in Fig. 6. The winning payline combinations can be read from left to right or from right to left (Para. 49), and so are first award symbols and second award symbols that are mirror images of each other. All of the first and second award symbols (winning payline combinations) are the same.

65. As to Claim 32: In '846, at least one of the first and second awards includes a modifier (multipliers, Fig. 4).

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66. As to Claim 33: In '846, the modifier includes a multiplier (multipliers, Fig. 4).

67. Claims 82 and 83 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of '095 and '849 in view of Nelson, et al. (U.S. pre-grant application 2002/0004424 A1, application 09/835,942).

68. As to Claims 82 and 83: The combination of '095 and '849 discloses all of the elements of Claims 70 and 71, but lacks specificity as to providing the steps of game play over a network or on the Internet. '424, however, teaches accessing a game via a web page over the Internet (Para. 50, 11). It would be obvious to one of ordinary skill in the art at the time the invention was made to apply the Internet mode of game play to the combination of '095 and '849. '424 is designed to be used with networked slot machines (Para. 11). The advantage of this combination would be to enhance players' interest in the game by providing a pool of winnings that all players can share (Para. 18).

#### ***Citation of Pertinent Prior Art***

69. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Nevada Gaming Regulation 14 is considered to be relevant as it cites a 75% minimum payout for gaming machines.

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***Conclusion***

70. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew D. Hoel whose telephone number is (571) 272-5961. The examiner can normally be reached on Mon. to Fri., 8:00 A.M. to 4:30 P.M.

71. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bob Olszewski can be reached on (571) 272-6788. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

72. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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